

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Michael G. Capps,	)	Case No. 8:18-cv-01434-DCC
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
	)	
Brian Long, Justin Pelfrey, Josh	)	
Labrecque,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court upon Plaintiff's complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On October 22, 2018, Defendants filed a motion for summary judgment. ECF No. 39. On February 12, 2019, the Magistrate Judge recommended that the motion for summary judgment be granted. ECF No. 75. By Order dated August 2, 2019, the Court adopted in part and declined to adopt in part the recommendation of the Magistrate Judge. ECF No. 104. The Court granted in part Defendants' motion for summary judgment and denied it in part with leave to refile. *Id.*

On October 15, 2019, Defendants filed a second motion for summary judgment. ECF No. 111. Plaintiff filed a response in opposition, and Defendants filed a reply. ECF Nos. 114, 116. On March 11, 2020, the Magistrate Judge issued a Report recommending

that the motion be granted and this action be dismissed. ECF No. 117. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff did not file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As stated above, Plaintiff has not objected to the Magistrate Judge's Report. Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Defendant's motion for summary judgment [117] is **GRANTED** and this action is **DISMISSED**.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

May 13, 2020  
Spartanburg, South Carolina